

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PETER CASTELLANOS,
Plaintiff,
v.
STATE OF NEVADA et al.,
Defendants.

2:17-cv-00902-RFB-VCF

ORDER

I. DISCUSSION

Plaintiff, who is a prisoner in the custody of the Nevada Department of Corrections (“NDOC”), has submitted a civil rights complaint pursuant to 42 U.S.C. § 1983 and a motion for TRO to compel NDOC executive to execute a federal financial certificate. (ECF No. 1-1, 1-2). Plaintiff has neither paid the full filing fee for this matter nor filed an application to proceed *in forma pauperis*.

Pursuant to 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, Plaintiff must complete an application to proceed *in forma pauperis* and attach both an inmate account statement for the past six months and a properly executed financial certificate. The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but will not file it until the matter of the payment of the filing fee is resolved. Plaintiff will be granted an opportunity to file an application to proceed *in forma pauperis*, or in the alternative, pay the full filing fee for this action. If Plaintiff chooses to file an application to proceed *in forma pauperis* he must file a fully complete application to proceed *in forma pauperis*.

The Court denies Plaintiff's motion for a TRO compelling prison officials to execute a financial certificate. If, however, Plaintiff continues to have difficulty obtaining a financial certificate and an inmate account statement from prison officials, Plaintiff shall file an affidavit

1 in this case detailing when he requested the documents, who he spoke to about the status of
2 the documents, who he followed up with after he did not receive the documents, and their
3 responses. In other words, if Plaintiff is unable to acquire the necessary documents from
4 prison officials, he must provide the Court with an affidavit that demonstrates that he has done
5 all that he could to acquire the documents by the Court's deadline. Plaintiff's affidavit should
6 include dates of his requests, dates of his follow-up requests, names of the prison officials that
7 he spoke to about the matter, and their responses. If Plaintiff's affidavit demonstrates that he
8 has done all that was possible to acquire the documents, the Court will consider his application
9 to proceed *in forma pauperis* complete.¹

10 **II. CONCLUSION**

11 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court SHALL SEND
12 Plaintiff the approved form application to proceed *in forma pauperis* by a prisoner, as well as
13 the document entitled information and instructions for filing an *in forma pauperis* application.

14 IT IS FURTHER ORDERED that **on or before Friday, May 5, 2017**, Plaintiff shall
15 either: (1) file a fully complete application to proceed *in forma pauperis*, on the correct form
16 with complete financial attachments in compliance with 28 U.S.C. § 1915(a); or (2) file an
17 affidavit detailing the efforts he took to acquire a financial certificate and an inmate account
18 statement from prison officials. If Plaintiff chooses to file an affidavit, his affidavit must
19 describe the actions he took to acquire the documents through Wednesday, April 26, 2017.
20 Plaintiff shall not file an affidavit before that date. Additionally, Plaintiff must submit an
21 application to proceed *in forma pauperis* to this Court even if he is unable to acquire the
22 necessary attachments from prison officials.

23 IT IS FURTHER ORDERED that if Plaintiff does not timely comply with this order,
24 dismissal of this action may result.

25 IT IS FURTHER ORDERED that the motion for TRO to execute financial certificate
26 (ECF No. 1-2) is denied.

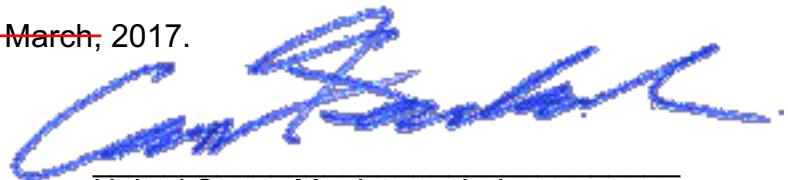
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28 ¹ Plaintiff must still submit an application to proceed *in forma pauperis* with his affidavit.

1 IT IS FURTHER ORDERED that the Clerk of the Court shall retain the complaint (ECF
2 No. 1-1), but shall not file it at this time.

3 April

4 DATED: This 17th day of ~~March~~, 2017.



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6 United States Magistrate Judge
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